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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
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10/795,898

03/08/2004

Dominique Nicolas Cade

25692a

1533

23913

7590

04/30/2008

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EXAMINER

LEE, EDMUND H

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

04/30/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                    |  |
|------------------------------|--------------------------------------|------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/795,898 | <b>Applicant(s)</b><br>CADE ET AL. |  |
|                              | <b>Examiner</b><br>EDMUND H. LEE     | <b>Art Unit</b><br>1791            |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/29/08 has been entered.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 9, and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Ogi (USPN 4155478). Ogi teaches the claimed inventions as evidenced by the entire specification and fig 1. It should be noted that casing 1 constitutes a capsule, and the mold of Ogi constitutes the claimed sealing clamp that clamps and holds the capsule. It should also be noted that injection mold inherently have injection ports.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogi (USPN 4155478). The above teachings of Ogi are incorporated hereinafter. In

regard to claim 10, such is well-known in the molding art in order to provide a presentable final product. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to remove any flash on the outside of the capsule in order to provide a presentable final product. In regard to claims 11-12, such is well-known in the molding art to remove flash from a molding apparatus in order to prepare for another molding cycle. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to remove flash from the mold/clamp of Ogi in order to prepare the mold/clamp for another molding cycle.

6. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogi (USPN 4155478). The above teachings of Ogi are incorporated hereinafter. In regard to 15, recycle means within molds are well-known in the molding art in order to reduce manufacturing costs. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include liquid recovery grooves in the apparatus of Ogi in order to achieve the above result. In regard to claim 16, molds having airing and suction ports are well-known in the molding art in order to efficiently fill a mold cavity. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include an airing and a suction port in apparatus of Ogi in order to achieve the above result. In regard to claim 17, the specific design of the mold groove/cavity is a mere obvious matter of choice dependent on the desired final product and of little patentable consequence to the claimed apparatus since it is not a manipulative feature or step of the claimed apparatus. Further, molds having injection grooves are well-known in the molding art. Thus, it would have been obvious to one of

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ordinary skill in the art at the time the invention was made to design the apparatus of Ogi to have the claimed groove in order to form an article having a protruding band.

7. Applicant's arguments with respect to claims 9-17 have been considered but are moot in view of the new ground(s) of rejection.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following USPNs teach the state of the art: 3073087 and 4415387.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDMUND H. LEE whose telephone number is 571.272.1204. The examiner can normally be reached on MONDAY-THURSDAY FROM 9AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571.272.1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EDMUND H. LEE  
Primary Examiner  
Art Unit 1791

/EDMUND H. LEE/  
Primary Examiner, Art Unit 1791